

Remarks:

Claims 21-38 are pending in this application. Claims 21 and 36 have been amended, and claims 39-50 have been canceled with this amendment.

1. Election/Restriction

In the office action dated March 25, 2003, the Examiner imposed a restriction requirement requiring Applicants to elect between Group I (claims 21-38) and Group II (claims 39-50). Applicants hereby elect to prosecute Group I, reserving the right to prosecute the non-elected group in a divisional application. This election is being made without traverse.

2. Rejection Under 35 U.S.C. § 112

The examiner has rejected claims 36 and 48 as indefinite for using the abbreviation PGMEA. Claim 36 has been amended to replace this abbreviation with the full name. Claim 48 has been canceled. It is believed that this rejection has now been overcome.

3. Double Patenting Rejection

The examiner has made a double patenting rejection of claims 21-50 in the subject application in view of claims 21-50 of Application No. 10/164,856, also filed by the applicant. In a recently filed amendment to the '856 application, the applicants canceled claims 21-50. Thus, this rejection should now be withdrawn.

4. *Mayo Declaration*

As noted by the Examiner in the office action, the applicants are submitting herewith a declaration by Jonathan Mayo, the same declaration submitted in Application No. 10/165,856. The Mayo Declaration describes the release of a polymer to several companies for experimental purposes. As noted in an amendment from the '856 prosecution, the applicant maintains this transaction was merely a transfer for the purposes of further research and development and does not in any way concede otherwise with the amendments and arguments made herein.

No prior art rejections have yet been made in the present application, however, the applicants would like to point out why the present claims are patentable over the Mayo Declaration (assuming the facts described therein are found by the examiner not to be experimental use contrary to the applicants' position).

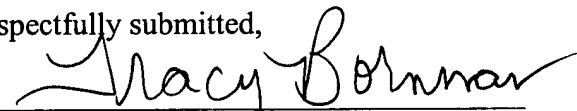
Independent claim 21 recites a combination which includes a substrate and an image layer comprising a matrix of pixels on the substrate. This limitation was missing from the black matrix composition discussed in the Mayo Declaration because the black matrix composition was not formed into pixels. Claim 21 has also been amended to further distinguish between a color filter composition and a black matrix composition. With this amendment, claim 21 now specifically recites "said image layer transmitting from about 70-95% of light at a wavelength of from about 400-700 nm when having a thickness of about 1.5 μm ." Support for this amendment can be found on page 13, lines 21-24 of the specification as filed. This is clearly different from the black matrix composition described in the Mayo Declaration (assuming, but not admitting, that this were a sale) because a black matrix composition is designed to prevent light from transmitting so the % of light transmission of a black matrix composition is extremely low and as close to 0% as is possible to achieve.

Furthermore, there is nothing in the use of the polymer in a black matrix composition which would render the pending claims obvious. There would be no motivation for one of ordinary skill in the art to look to a black matrix composition which is designed to prevent the transmission of light and modify that composition to allow at least 70-95% of light to pass through as presently claimed. This property is totally undesirable in a black matrix composition.

In view of these amendments and the remarks herein, applicant respectfully submits that the currently pending claims are now in allowable condition and requests a Notice of Allowance. In the event of further questions, the Examiner is urged to call the undersigned. Any additional fee which might be due in connection with this application should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

By



Tracy Bornman, Reg. No. 42,347
HOVEY WILLIAMS LLP
2405 Grand Boulevard, Suite 400
Kansas City, Missouri 64108
816/474-9050

ATTORNEYS FOR APPLICANT(S)